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6 **BEFORE THE**
7 **BOARD OF VOCATIONAL NURSING AND PSYCHIATRIC TECHNICIANS**
8 **DEPARTMENT OF CONSUMER AFFAIRS**
9 **STATE OF CALIFORNIA**

10 In the Matter of the Accusation Against:

Case No. VN-2009-128

11 **RHONDA DARLENE JEMISON**

12 1689 Alicia Drive
13 Yuba City, CA 95993

DEFAULT DECISION AND ORDER

14 **Vocational Nurse License No. VN 211563**

[Gov. Code, §11520]

15 Respondent.

16 **FINDINGS OF FACT**

17 1. On or about February 15, 2011, Complainant Teresa Bello-Jones, J.D., M.S.N., R.N.,
18 in her official capacity as the Executive Officer of the Board of Vocational Nursing and
19 Psychiatric Technicians, Department of Consumer Affairs, filed Accusation No. VN-2009-128
20 against Rhonda Darlene Jemison (Respondent) before the Board of Vocational Nursing and
21 Psychiatric Technicians. (Accusation attached as Exhibit A.)

22 2. On or about October 18, 2004, the Board of Vocational Nursing and Psychiatric
23 Technicians (Board) issued Vocational Nurse License No. VN 211563 to Respondent. The
24 Vocational Nurse License was in effect at all times relevant to the charges brought in the
25 Accusation and will expire on July 31, 2012, unless renewed.

26 3. On or about February 15, 2011, Respondent was served by certified and first class
27 mail copies of the Accusation No. VN-2009-128, Statement to Respondent, Request for
28 discovery, Notice of Defense (2 copies) and copy of Government Code sections 11507.5, 11507.6

1 and 11507.7 at Respondent's address of record which, pursuant to Business and Professions Code
2 section 136, is required to be reported and maintained with the Board, which was and is:
3 1689 Alicia Drive, Yuba City, CA 95993.

4 4. Service of the Accusation was effective as a matter of law under the provisions of
5 Government Code section 11505, subdivision (c) and/or Business & Professions Code section
6 124.

7 5. Business and Profession Code 118 states, in pertinent part:

8 (b) the suspension, expiration, or forfeiture by operation of law of a license
9 issued by a board in the department, or its suspension, forfeiture, or cancellation by
10 order of the board or by order of a court of law, or its surrender without the written
11 consent of the board, shall not, during any period in which it may be renewed,
12 restored, reissued, or reinstated, deprive the board of its authority to institute or
13 continue a disciplinary proceeding against the licensee upon any ground provided by
14 law or to enter an order suspending or revoking the license or otherwise taking
15 disciplinary action against the license on any such grounds.

16 6. The certified mailing of the aforementioned documents was returned by the U.S.
17 Postal Service marked "Return To Sender: Unclaimed". The first class mailing of the documents
18 has not been returned by the U.S. Postal Service.

19 7. Government Code section 11506 states, in pertinent part:

20 (c) The respondent shall be entitled to a hearing on the merits if the respondent
21 files a notice of defense, and the notice shall be deemed a specific denial of all parts
22 of the accusation not expressly admitted. Failure to file a notice of defense shall
23 constitute a waiver of respondent's right to a hearing, but the agency in its discretion
24 may nevertheless grant a hearing.

25 8. Respondent failed to file a Notice of Defense within 15 days after service upon her of
26 the Accusation, and therefore waived her right to a hearing on the merits of Accusation No. VN-
27 2009-128.

28 9. California Government Code section 11520 states, in pertinent part:

(a) If the respondent either fails to file a notice of defense or to appear at the
hearing, the agency may take action based upon the respondent's express admissions
or upon other evidence and affidavits may be used as evidence without any notice to
respondent.

10 Pursuant to its authority under Government Code section 11520, the Board finds
Respondent is in default. The Board will take action without further hearing and, based on the

1 relevant evidence contained in the Default Decision Evidence Packet in this matter, as well as
2 taking official notice of all the investigatory reports, exhibits and statements contained therein on
3 file at the Board's offices regarding the allegations contained in Accusation No. VN-2009-128,
4 finds that the charges and allegations in Accusation No. VN-2009-128, are separately and
5 severally, found to be true and correct by clear and convincing evidence.

6 11. Taking official notice of its own internal records, pursuant to Business and
7 Professions Code section 125.3, it is hereby determined that the reasonable costs for Investigation
8 and Enforcement is \$870.00 as of March 9, 2011.

9 DETERMINATION OF ISSUES

10 1. Based on the foregoing findings of fact, Respondent Rhonda Darlene Jemison has
11 subjected her Vocational Nurse License No. VN 211563 to discipline.

12 2. The agency has jurisdiction to adjudicate this case by default.

13 3. The Board of Vocational Nursing and Psychiatric Technicians is authorized to revoke
14 Respondent's Vocational Nurse License based upon the following violations alleged in the
15 Accusation which are supported by the evidence contained in the Default Decision Evidence
16 Packet in this case:

17 a. Code section 2878, subdivision (f)- criminal conviction;

18 b. Code section 2878, subdivision (a) and Code section 2878.5, subdivision (c)- criminal
19 conviction involving alcohol;

20 c. Code section 2878, subdivision (a) and Code section 2878.5, subdivision (b)- use of
21 alcohol to an injurious or dangerous extent.

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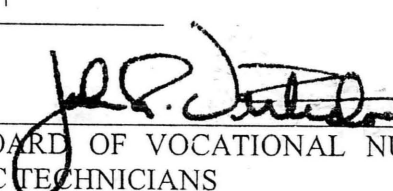
1 ORDER

2 IT IS SO ORDERED that Vocational Nurse License No. VN 211563, heretofore issued to
3 Respondent Rhonda Darlene Jemison, is revoked.

4 Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a
5 written motion requesting that the Decision be vacated and stating the grounds relied on within
6 seven (7) days after service of the Decision on Respondent. The agency in its discretion may
7 vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.

8 This Decision shall become effective on July 3, 2011.

9 It is so ORDERED June 3, 2011

10 
11 FOR THE BOARD OF VOCATIONAL NURSING AND
12 PSYCHIATRIC TECHNICIANS
13 DEPARTMENT OF CONSUMER AFFAIRS

14 10675630.DOC/SA2010102003

15 Attachment: Exhibit A: Accusation

Exhibit A

Accusation

FILED

FEB 15 2011

Board of Vocational Nursing
and Psychiatric Technicians

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7 *Attorneys for Complainant*

8 **BEFORE THE**
9 **BOARD OF VOCATIONAL NURSING AND PSYCHIATRIC TECHNICIANS**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

11 In the Matter of the Accusation Against:
12 **RHONDA DARLENE JEMISON**
13 **1689 Alicia Drive**
Yuba City, CA 95993
14 **Vocational Nurse License No. VN 211563**

Case No. VN-2009-128

A C C U S A T I O N

Respondent.

15
16 Complainant alleges:

17 **PARTIES**

18 1. Teresa Bello-Jones, J.D., M.S.N., R.N. ("Complainant") brings this Accusation solely
19 in her official capacity as the Executive Officer of the Board of Vocational Nursing and
20 Psychiatric Technicians ("Board"), Department of Consumer Affairs.

21 **Vocational Nurse License**

22 2. On or about October 18, 2004, the Board issued Vocational Nurse License Number
23 VN 211563 to Rhonda Darlene Jemison ("Respondent"). The vocational nurse license will expire
24 on July 31, 2012, unless renewed.

25 **JURISDICTION**

26 3. Section 2875 of the Business and Professions Code ("Code") provides, in pertinent
27 part, that the Board may discipline the holder of a vocational nurse license for any reason
28 provided in Article 3 (commencing with section 2875) of the Vocational Nursing Practice Act.

4. Code section 118, subdivision (b) provides, in pertinent part, that the expiration of a license shall not deprive the Board jurisdiction to proceed with a disciplinary action during the period within which the license may be renewed, restored, reissued or reinstated. Under section 2892.1 of the Code, the Board may renew an expired license at any time within four years after the expiration.

STATUTORY PROVISIONS

5. Code section 2878 states, in pertinent part:

The Board may suspend or revoke a license issued under this chapter [the Vocational Nursing Practice Act (Bus. & Prof. Code, 2840, et seq.)] for any of the following:

(a) Unprofessional conduct, which includes, but is not limited to, the following:

• • •

(f) Conviction of a crime substantially related to the qualifications, functions, and duties of a licensed vocational nurse, in which event the record of the conviction shall be conclusive evidence of the conviction.

6. Code section 2878.5 states, in pertinent part:

In addition to other acts constituting unprofessional conduct within the meaning of this chapter [the Vocational Nursing Practice Act] it is unprofessional conduct for a person licensed under this chapter to do any of the following:

• • •

(b) Use any controlled substance as defined in Division 10 of the Health and Safety Code, or any dangerous drug as defined in Section 4022, or alcoholic beverages, to an extent or in a manner dangerous or injurious to himself or herself, any other person, or the public, or to the extent that the use impairs his or her ability to conduct with safety to the public the practice authorized by his or her license.

(c) Be convicted of a criminal offense involving possession of any narcotic or dangerous drug, or the prescription, consumption, or self-administration of any of the substances described in subdivisions (a) and (b) of this section, in which event the record of the conviction is conclusive evidence thereof.

COST RECOVERY

7. Code section 125.3 provides, in pertinent part, that the Board may request the administrative law judge to direct a licensee found to have committed a violation or violations of

1 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
2 enforcement of the case.

3 **FIRST CAUSE FOR DISCIPLINE**

4 **(Criminal Conviction)**

5 8. Respondent has subjected her license to discipline pursuant to Code section 2878,
6 subdivision (f), in that on or about August 5, 2009, in the Superior Court, County of Sutter,
7 California, in the matter entitled *People v. Rhonda Darlene Jemison*, 2009, Case No. CR-F-09-
8 0001701, Respondent was convicted following her plea of no contest to a violation of Vehicle
9 Code section 23152, subdivision (b) (driving with a blood alcohol level of .08% or more), a
10 misdemeanor and Penal Code section 273a, subdivision (a) (under circumstances or conditions
11 likely to produce great bodily harm or death, did willfully cause or permit any child to suffer, or
12 did inflict thereon, unjustifiable physical pain or mental suffering, or having the care or custody
13 of any child, did willfully cause or permit the person or health of such child to be injured, or did
14 willfully cause or permit such child to be placed in such situation that its person or health may be
15 endangered), a misdemeanor, pursuant to Penal Code section 17, subdivision (b). The
16 circumstances of the crime are that on or about July 12, 2009, a Yuba City Police Officer was
17 dispatched to a possible injury accident. Respondent's vehicle was lodged between a cinder
18 block wall and a large tree. At the time of the accident, Respondent had a patient and the
19 patient's brother in the vehicle with her. Two bottles of Captain Morgan Rum were found on the
20 rear passenger seat. During the investigation of the accident, Respondent was combative and
21 uncooperative with the officer. Respondent's blood alcohol level measured .30%. Such conduct
22 is substantially related to the qualifications, functions, and duties of a licensed vocational nurse.

23 **SECOND CAUSE FOR DISCIPLINE**

24 **(Conviction of a Crime Involving Alcohol)**

25 9. Respondent has subjected her license to discipline pursuant to Code section 2878,
26 subdivision (a), on the grounds of unprofessional conduct, as defined by Code section 2878.5,
27 subdivision (c), in that Respondent has been convicted of crimes involving the consumption of
28 alcoholic beverages, as more particularly set forth in paragraph 8, above.

1 **THIRD CAUSE FOR DISCIPLINE**

2 **(Use Alcohol to an Extent or in a Manner Dangerous or Injurious)**

3 10. Respondent has subjected her license to discipline pursuant to Code section 2878,
4 subdivision (a), on the grounds of unprofessional conduct, as defined in Code section 2878.5,
5 subdivision (b), in that on or about July 12, 2009, Respondent used alcoholic beverages to an
6 extent or in a manner dangerous or injurious to herself or others, as more particularly set forth in
7 paragraphs 8 and 9, above.

8 **PRAYER**

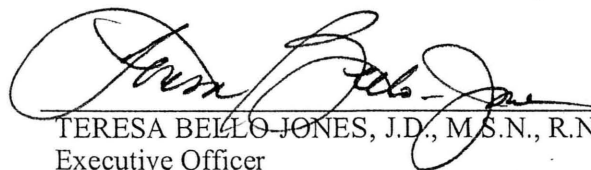
9 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
10 and that following the hearing, the Board of Vocational Nursing and Psychiatric Technicians
11 issue a decision:

12 1. Revoking or suspending Vocational Nurse License Number VN 211563, issued to
13 Rhonda Darlene Jemison;

14 2. Ordering Rhonda Darlene Jemison to pay the Board of Vocational Nursing and
15 Psychiatric Technicians the reasonable costs of the investigation and enforcement of this case,
16 pursuant to Business and Professions Code section 125.3; and,

17 3. Taking such other and further action as deemed necessary and proper.
18
19

20 DATED: February 15, 2011



21 TERESA BELLO-JONES, J.D., M.S.N., R.N.
22 Executive Officer
23 Board of Vocational Nursing and Psychiatric Technicians
24 Department of Consumer Affairs
25 State of California
26 Complainant

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